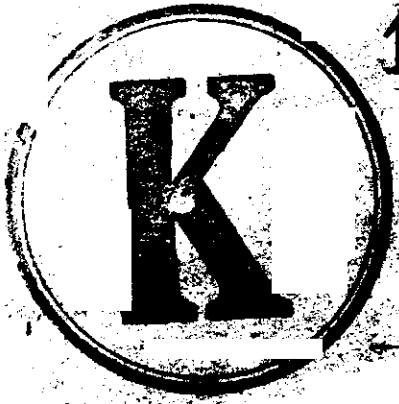




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Commodities/2
File No. 0/Essential
25/52

Legal Department.

BRANCH

Subject:—

Opinion under the Bombay
Essential Commodities and Cattle
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There is no order made under the Bombay Essential Commodities and Cattle (Control) Act prohibiting the transport of cattle outside India. The only order prohibiting export of cattle from India to Goa is therefore the order issued by the Government of India, Department of Commerce, No. 91 C.W.(1)/45, dated 3rd November 1945. This order was issued under Rule 84(3) of the Defence of India Rules. On the expiry of the Defence of India Act and Rules on 1st October 1946, Rule 84 was continued in force under section 2(1) of the ⁱⁿEmergency Provision (Continuance) Ordinance, 1946. All orders made under Rule 84 and in force immediately before the expiry of the Defence of India Rules were continued in force under section 2(ii) of the abovesaid Ordinance. Thereafter the Government of India passed an Act in 1947 entitled the Imports and Exports (Control) Act, 1947 under section 4 of which all orders made under rule 84 of the Defence of India Rules were continued in force and were to be deemed as orders made under the Act. Since 1947 i.e. since the passing of the Imports and Exports (Control) Act, therefore Government Notification, Department of Commerce, No. 91-C.W.(1)/45, dated 3rd November 1945 is to be deemed to be made under that Act. "Import and Export across customs frontiers" was an item in the Federal Legislative List and the State Government cannot make any valid order under the Bombay Essential Commodities and Cattle (Control) Act, in respect of that item. (see item 19 of the Federal Legislative List in the 7th schedule to ^{the} Government of India Act, 1935 and item 41 in the Union List in the Seventh Schedule to the Constitution of India).

2. The view taken by the District Magistrate, Kanara, is correct and action can be effectively taken under the Imports and Exports (Control) Act, 1947 read with the Government of India, Department of Commerce Order No. 91 C.W.(1)/45, dated the 3rd November 1945.

Sd/ P. M. Lad.

Remembrancer of Legal Affairs.

U.R. to A. & F.D.No.1360/G.Confl.dated the

8th December 1952.

EKN.26/7/